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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,689	06/25/2003	Hirokazu Matsuura	26C-021	1370

23400 7590 05/13/2005

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER

DUNN, DAVID R

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/602,689	MATSUURA ET AL.	
	Examiner	Art Unit	
	David Dunn	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/09/04, 7/29/04, 6/25/03</u> | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statements filed 6/25/2003, 7/29/2004, and 11/09/2004 are acknowledged. See enclosed IDS forms.

Inventorship

3. In view of the papers filed July 29, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(c). The inventorship of this application has been changed by the addition of inventor Kazuhiro Nakayama.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Claim Objections

4. Claims 1 and 5 are objected to because of the following informalities: in the last line of claim 1, it appears that "the airbag" should be --the airbag cover-- as the gap is described in the specification in relation to the airbag cover, not the airbag (see the abstract, for example).

Similarly, see claim 5. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 4 and 5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. New claim 4 recites that the case has a recessed section that "can accommodate the steering column when shifted". The specification does not describe how the recess is to accommodate the steering column when shifted. The specification does not discuss anything being "shifted." Further, from original Figure 5, it is not clear that a recess is shown.

This limitation ("the recessed section that can accommodate the steering column when shifted") is new matter not supported by the original disclosure.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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8. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is indefinite as it is unclear what is "shifted" (the claim could be read such that either the case or the steering column is shifted).

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Warnez et al. (5,904,367).

Warnez et al. discloses a knee protection device airbag device arranged in front of the knees of a seated vehicle occupant (see Figures 1 and 6), comprising: a case (18); an airbag cover including a door portion (20) adapted to open upwardly (see Figure 6); and an interior decoration member (10) separate from the airbag cover, wherein the airbag opens to door such that a gap formed between the interior decoration member and the airbag (see Figure 6) is covered when the airbag is deployed.

The airbag cover comprising a general portion (88) which supports the interior decoration member.

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11. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Hass et al. (3,784,223).

Hass et al. shows a knee protecting airbag device (see Figure 3) comprising an airbag (16); a case (80) that has a recessed section at a front side thereof to accommodate the steering column when shifted (see 80; Figure 3); and an inflator (20).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Warnez et al. in view of Inada et al. (5,183,288).

Warnez et al. is discussed above and fails to show a lower door to open downward.

Inada et al. shows that it is old and well known to provide an airbag door with upper and lower doors (see Figure 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Warnez et al. with the teachings of Inada et al. to provide two doors in order to have smaller doors that would not extend as far into the passenger compartment.

14. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hass et al. in view of Warnez et al.

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Hass et al. is discussed above and fails to show the door of the airbag cover covering a gap between the interior decoration member and the airbag.

Warnez et al. is discussed above.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hass et al. with the teachings of Warnez et al. to provide an improved airbag cover door to help better guide the inflation of the airbag.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Woolley et al. shows an airbag cover of interest. Takimoto et al. shows a knee airbag of interest.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'David Dunn', with a long horizontal line extending to the right.

David Dunn
Primary Examiner
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